

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

M. SHANKEN COMMUNICATIONS, INC.,

Plaintiff,

07-Civ.-7371 (JGK)

– against –

CIGAR500.COM INC. AND ANTHONY  
MASCIANGELO,

Defendants.

**DECLARATION OF LISA T. SIMPSON  
IN FURTHER SUPPORT OF  
MOTION TO WITHDRAW**

I, Lisa T. Simpson, declare:

1. I am a member of the Bar of this Court and the firm Orrick, Herrington & Sutcliffe LLP (“Orrick”), attorneys of record for defendant Cigar500.com Inc. (“Cigar500”). I submit this declaration in further support of Orrick’s motion to withdraw as counsel to Cigar500 and to correct a misstatement in the letter submission made by Anthony Masciangelo, dated August 25, 2008. Contrary to Mr. Masciangelo’s letter, at the time of Orrick’s motion, Mr. Masciangelo had not advised Orrick that his previously-retained Philadelphia counsel was admitted in New York or that that counsel was prepared to assume the defense of this New York matter – or even that such a substitution was a possibility. Mr. Masciangelo mentioned this only after Orrick’s motion was filed (and never once in response to Orrick’s repeated requests over the last several months that he retain other counsel to represent Cigar500 in New York). Further, it is Orrick’s understanding that Cigar500’s and Mr. Masciangelo’s Philadelphia counsel, retained to defend Cigar500 and Mr. Masciangelo in a suit brought by Ashton Distributors, Inc. in the United States District Court for the Eastern District of Pennsylvania, has been in place since shortly after the commencement of that suit in December 2007. Presumably, that counsel

could have stepped in as counsel to this New York matter at the time of or shortly after Orrick's original motion to withdraw in March 2008, if that indeed was the intention. Instead, Cigar500 has continued to expect and require Orrick to expend time and resources in its defense, despite the fact that no payments for those services is forthcoming.

2. Regardless, while it seems Cigar500 may object to the timing of Orrick's motion (as it would regardless of when made), and perhaps to Orrick's rates (about which it was thoroughly advised), it does not appear to object to Orrick's withdrawal as counsel. Orrick therefore respectfully requests that its motion to withdraw be granted.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 27, 2008, at New York, New York

/s/ Lisa T. Simpson

Lisa T. Simpson